

TRADE PREFERENCES

HAITIAN HEMISPHERIC OPPORTUNITY THROUGH PARTNERSHIP ENCOURAGEMENT (“HOPE I”) ACT OF 2006 AND (“HOPE II”) ACT OF 2008

This act calls for duty free provisions extending certain trade benefits to Haiti.

On December 20, 2006, the President signed into law the Tax Relief and Health Care Act of 2006 (“the 2006 Act”), of which Title V concerns the extension of certain trade benefits to Haiti and is referred to as the “Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006” (“HOPE I Act”).



On June 18, 2008 Congress voted into law the Food Conservation and Energy Act of 2008 otherwise known as “Farm Bill 2008”. This bill includes modifications to the Caribbean Basin Economic Recovery Act and the HOPE Act 2006. These changes are known as the HOPE II Act. On September 30, 2008 the Hope Act II was implemented and on October 3, 2008, the changes to the Harmonized Tariff Schedule Chapter 98, Subchapter XX were published in the Federal Register. The modifications will take effect on October 1, 2008 for goods that are entered or withdrawn from warehouse, for consumption, and will continue for the specific period of time.

BASIC REQUIREMENTS OF HOPE II

- The goods must be wholly assembled or knit-to-shape in Haiti
- The goods must be imported directly from Haiti or the Dominican Republic
- The goods must be classifiable in certain Chapter 42, 61, 62 or 65 tariff numbers of the HTS
- The goods must be entered with an associated HTS 9820 subheading
- The goods must be entered with a valid, original textile visa issued by the Government of Haiti. The visa must be presented to Customs when making the claim for preferential tariff treatment
- If the goods are subject to a quantity limits, they must be entered before that limit fills. Once a limit is filled, the goods will be subject to the normal rate of duty

SPECIAL DEFINITIONS

Wholly assembled: A good is ‘wholly assembled’ in Haiti if all components of the good, (at least two), pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliques, beads, spangles,

embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is 'wholly assembled' in Haiti.

Knit-to-shape: A good is 'knit-to-shape' if 50 percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pocket appliqués or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether the good is 'knit-to-shape.'

ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT

Originally, under the HOPE Act of 2006, four tariff provisions were created for claiming preferential treatment. HOPE II Act modifies the existing provisions and creates several new provisions to provide preferential tariff treatment to additional kinds of goods. These HTS provisions are found under Chapter 98, Subchapter XX and must be used in conjunction with the appropriate Chapter 42, 61, 62 or 65 HTS numbers when making a HOPE claim.

AFRICAN GROWTH AND OPPORTUNITY ACT

The African Growth and Opportunity Act (AGOA), is a program that provides special rates of duties for certain sub-Saharan African countries which have met the requirements of the AGOA. The program was enacted by the United States in the Trade Act of 1974.

The articles will be marked in the HTS chapters 1-97 in the special sub-column with the symbol “D”. Merchandise is eligible for AGOA under the following conditions:

- (1) The merchandise is the growth, product or manufacture of a beneficiary sub-Saharan African country.
- (2) The sum of the cost or value of the materials produced in one or more of the beneficiary sub-Saharan African countries, **plus** the direct costs of processing operations performed in the beneficiary sub-Saharan African country is not less than 35% of the value of such article at the time it is entered. The cost or the value of the goods produced in the Customs territory of the U.S. may be counted toward the 35% requirement but only up to 15% of the appraised value of the imported article.



The list of eligible sub-Saharan African countries is listed under General Note 16a of the U.S. Tariff Schedule.

The duty-free treatment under this program shall be effective for eligible articles entered, or withdrawn from warehouse for consumption, and will continue in effect through the close of September 30, 2015.

UNITED STATES CARIBBEAN BASIN TRADE PARTNERSHIP ACT OF 2000

This is Chapter Note 17 which is in addition to General Note 7.

The Caribbean Basin Trade Partnership is a program which entitles such countries as Barbados, Belize, Guyana, Haiti, Jamaica, Panama, Saint Lucia, and Trinidad and Tobago. Special duty treatment for articles imported to the United States. The eligible articles in chapters 1 through 97 of the tariff schedule will be marked with the symbol “R” in the special sub-column. Whenever an eligible article from one or more designated beneficiary CBTPA countries is imported directly into the United States, such merchandise shall be entitled to receive the duty-free or reduced duty treatment provided that :

1. The article was wholly obtained or produced entirely in one or more beneficiary CBTPA countries listed above.
2. The article would be an originating good for purposes of general note 12 to the tariff schedule

It is important to note that articles of a designated beneficiary CBTPA will not be eligible for this program by simply having undergone combining or packing operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

Whenever a rate of duty other than “Free” appears in the “Special” sub-column for any heading or subheading followed by the symbol “E” or “E*” and a lower rate of duty appears in that sub-column followed by the symbol “R”, the article is entitled to the lower rate of duty.

This program shall be effective for goods that are entered or withdrawn from warehouse for consumption, and continue in effect through of September 30, 2008 or the date on which another free trade agreement enters into force with respect to the United States and the CBTPA beneficiary country.

UNITED STATES- JORDAN FREE TRADE AREA IMPLEMENTATION ACT

The U.S. - Jordan Free Trade Area Implementation act took effect on October 24, 2000.

This program provides special duty treatment for products of Jordan which are imported to the U.S. These articles will be marked with the symbol “JO” in the special sub-column in chapters 1-97 of the U.S. Tariff Schedule.

Goods are considered to be a product of Jordan if they are imported directly from Jordan into the customs territory of the United States. The articles qualify for special duty treatment if:



- (1) The article is wholly the growth, product or manufacture of Jordan, or
- (2) The product is new or different articles of commerce that have been grown, produced or manufactured in Jordan

The expression “wholly the growth, product or manufacture of Jordan” refers to articles that have been entirely grown, produced or manufactured in Jordan, and all materials incorporated in an article which have been entirely grown, produced or manufactured in Jordan. This does not include articles or materials imported into Jordan from another country, whether or not the articles or materials were substantially transformed into new or different articles after their importation into Jordan.

Under this program, goods are eligible for the special tariff treatment if the cost or value of the goods produced in Jordan, plus the direct costs of processing operations performed in Jordan, is 35% of the appraised value of the article at the time it is imported.

If the cost of materials produced in the customs territory of the U.S. is to be included in the value, only 15% of the value of the article may be applied toward determining the percentage.

It is important to note that articles are not considered eligible by mere combining or packaging operations, or by dilution with water or by dilution with another substance that does not materially change the characteristics of the article.

The term “cost or value of goods” refers to the following:

- (1) The manufacturer’s actual cost for the materials
- (2) The freight, insurance, packing and all other costs incurred in transporting the materials to the manufacturer’s plant, if not included in manufacturer’s cost for materials
- (3) the actual cost of waste or spoilage (material list), less the value of recoverable scrap,
- (4) taxes and/or duties imposed on the materials provided they are not remitted upon exportation

The term “direct costs of processing operations” means those costs related to the growth, production, manufacture or assembly of the goods entered. This includes, but is not limited to:

- (1) Actual labor costs involved in the growth, production, manufacture or assembly of the merchandise
- (2) dies, molds, tooling and depreciation on machinery and equipment
- (3) research, development, design, engineering and blueprint costs
- (4) costs of inspecting and testing the article

The term “**imported directly**” means-

- (1) a direct shipment from Jordan to the United States without passing through the territory of any other country, or
- (2) if shipment is through the territory of another country, the articles in the shipment do not enter into the commerce of any other country and the invoices, bills of lading and other shipping documents show the U.S. as the final destination, or
- (3) if a shipment comes via another country and the invoices and other documents do not show the U.S. as the final destination, then the articles in the shipment are imported directly only if they-
 - (1) remain in customs custody in the intermediate country,
 - (2) do not enter into the commerce of an intermediate country
 - (3) have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition.

Whenever an importer enters an article as eligible under this program, the following is required:

- (1) certification that such article qualifies
- (2) upon request, a declaration setting forth details on the production of the article

UNITED STATES – SINGAPORE FREE TRADE AGREEMENT

The U.S.-Singapore Free Trade Agreement is a program for preferential duty treatment for goods from Singapore which are imported to the U.S. “STFA” country refers only to Singapore or to the U.S.



Goods of Singapore that are imported into the customs territory of the United States and for which a rate of duty appears in the “Special” sub-column followed by the symbol “SG” are eligible for treatment.

Articles from Singapore imported to the U.S. qualify for special treatment under the following conditions:

- (1) The goods are wholly obtained or produced entirely in the territory of Singapore or of the U.S. or both;
- (2) The goods are, in their condition as imported, listed in GN25 and originate in Singapore; or
- (3) Have been transformed in the territory of Singapore or of the U.S., or both, so that each non-originating material changes in tariff classification as described in GN25 or if no change in tariff classification, the good still satisfies the applicable requirements

The term “wholly obtained or produced” refers to goods that are-

- (1) mineral products extracted from the territory of Singapore or of the U.S., or both;
- (2) vegetable products harvested in the territory of Singapore or of the U.S., or both;
- (3) live animals born and raised in the territory of Singapore or of the U.S., or both;
- (4) goods obtained from hunting, trapping, fishing, or aquaculture from the territory of Singapore or of the U.S., or both;
- (5) goods such as marine life taken from the sea by vessels registered or recorded with Singapore or the U.S. and flying its flag;
- (6) goods produced exclusively from products referred to in subdivision (E) on board factory ships registered or recorded with Singapore or the United States and flying its flag;

- (7) goods taken by Singapore or the U.S., or a person of Singapore or the U.S., from the seabed or beneath it and outside territorial waters, provided that Singapore or the U.S. has rights to exploit that seabed;
- (8) goods taken from outer space if they are obtained by Singapore or the U.S. or a person of Singapore or the U.S. and are processed in the territory of Singapore or the U.S.
- (9) waste and scrap which comes from production in the territory of Singapore or of the U.S., or both;
- (10) used goods from Singapore or U.S., provided such goods are fit only for the recovery of raw materials;
- (11) recovered goods derived in Singapore or of the U.S., or both, from used goods; or
- (12) Articles produced in Singapore or the U.S., or both, from list of goods 1-9 above

The term “recovered goods” means materials (individual parts) resulting from:

- (1) the break down of used goods into individual parts; and
- (2) the cleaning, inspecting, testing or other processing of those parts by one or more of the following processes: welding, flame spraying, surface machining, knurling, plating, sleeving and rewinding so that the parts can be assembled with other parts, including other recovered parts, in the production of a remanufactured article

Articles eligible for treatment as Remanufactured goods are listed in GN25

De minimis.

A good, (other than a textile or apparel good) that does not undergo a change in tariff classification is still considered to be an originating good if-

- (1) the value of all non-originating materials is not over 10% of the adjusted value of the article
- (2) the good is subject to a regional value-content requirement
- (3) the good meets all other requirements for qualifying as an originating good.

Regional value content.

The regional value content of such good shall be calculated on the basis of one of the following methods:

- (A) For the build-down method, the applicable formula is $RVC = ((AV - VNM)/AV) \times 100$, where RVC is the regional value content as a percentage; AV is the adjusted value; and VNM is the value of non-originating materials that are acquired and used by the producer.
- (B) For the build-up method, the applicable formula is $RVC = (VOM /AV) \times 100$, where RVC is the regional value content as a percentage; AV is the adjusted value; and VOM is the value of originating goods that are acquired or self-produced and are used by the Producer.

Record-keeping requirements and verification.

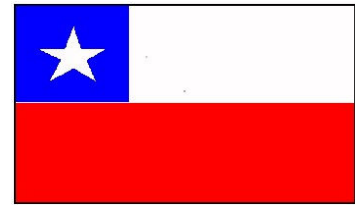
- An importer of a good entitled to special treatment under this program will need to submit, upon request by customs, a statement explaining why goods qualify and pertinent cost and manufacturing information, as detailed in the regulations.
- Importers need to maintain records for a period of five years after the date of importation

UNITED STATES – CHILE FREE TRADE AGREEMENT

Under this program, goods of Chile that are imported into the United States are entitled to special duty treatment. The goods are entered under a provision for which a rate of duty appears in the “Special” sub-column of column 1 marked with the symbol “CL”. The term “UCFTA country” refers only to Chile or to the United States.

Goods imported into the United States are eligible for treatment as originating goods of a UCFTA country if the following conditions are met:

- (1) The goods were wholly obtained or produced in the territory of Chile or of the U.S. or both;
- (2) The goods were produced completely in the territory of Chile or of the U.S., or both, and each non-originating part used in the production of the good undergoes an applicable change in tariff classification or the good satisfies applicable RVC or other requirements. In GN26 (See GN26 for specific Change in Tariff rules applicable for this program)
- (3) The good is produced entirely in the territory of Chile or of the U.S., or both, exclusively from materials described in 1-2 above



De minimis.

A good, (other than a textile or apparel good) that does not undergo a change in tariff classification is still considered to be an originating good if-

- (1) the value of all non-originating materials is not over 10% of the adjusted value of the article
- (2) the good is subject to a regional value-content requirement
- (3) the good meets all other requirements for qualifying as an originating good.

Regional value content.

The regional value content of such good shall be calculated on the basis of one of the following methods:

(A) For the build-down method, the applicable formula is $RVC = ((AV - VNM)/AV) \times 100$, where RVC is the regional value content as a percentage; AV is the adjusted value; and VNM is the value of non-originating materials that are acquired and used by the producer.

(B) For the build-up method, the applicable formula is $RVC = (VOM / AV) \times 100$, where RVC is the regional value content as a percentage; AV is the adjusted value; and VOM is the value of originating goods that are acquired or self-produced and are used by the producer.

Record-keeping requirements and verification.

-An importer of a good, claiming special treatment needs to present a written declaration that the good qualifies as originating and must submit, upon request by customs, a certificate of origin including pertinent cost and manufacturing information.

-Importers shall maintain records for a period of five years after the date of importation

UNITED STATES – MOROCCO FREE TRADE AGREEMENT

Under this program, goods of Morocco, noted in subdivisions (b) through (h) of GN27 of the HTS that are imported into the U.S. are entitled to special duty treatment. These goods will be entered under a provision for which a rate of duty appears in the “Special” sub-column of column 1 followed by the symbol “MA”. The term “UMFTA country” refers only to Morocco or to the United States.

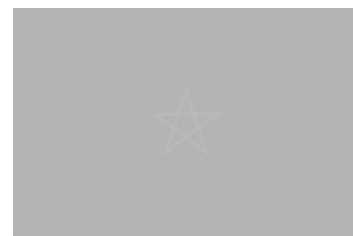
A good imported into the U.S. is eligible for treatment as an originating good of a UMFTA country under the following conditions:

(1) The good is a good wholly the growth, product or manufacture of Morocco, the U.S. or both;

(2) The good is a new or different article that has been grown, produced or manufactured in the territory of Morocco or of the U.S., or both, and that falls in a heading or subheading of the tariff schedule that is listed in the product-specific rules of subdivision (h) of GN27.

The sum of the value of each material produced in the territory of Morocco or of the U.S., or both, **and** the direct costs of processing operations performed in the territory of Morocco or the U.S., or both, is not less than 35% of the appraised value of the good at the time the good is imported to the U.S.

(3) the good falls in a heading or subheading covered by a product-specific rule and each of the non-originating parts used in the production of the good undergoes a



CUSTOMS REVIEW

change in tariff classification (see GN 27 for tariff change rules) or the good otherwise satisfies the requirements specified in GN 27 of the HTS; and is imported directly into the territory of the U.S. from Morocco.

The term “direct costs of processing operations,” includes the following:

- (1) All actual labor costs involved in the growth or manufacture of the goods
- (2) Tools, dies, molds and other indirect materials, and depreciation on machinery and equipment that are allocable to the good;
- (3) research, development, design, engineering and blueprint costs, to the extent that they are allocable to the good;
- (4) costs of inspecting and testing the good
- (5) costs of packaging the good for export to another country.

Value of materials.

The value of a material includes the following:

- (A) the price actually paid or payable by the producer
- (B) the freight, insurance, packing and all other costs incurred if such costs are not included in price actually paid
- (C) the cost of waste or spoilage resulting from the use of the material less the value of recoverable scrap; and
- (D) taxes or customs duties imposed on the material by Morocco, the United States, or both,

If the relationship between the producer of a good and the seller of the good, influenced the price actually paid or payable for the material, or if there is no price actually paid or payable, the value of the material includes the following:

- (A) all expenses incurred in the growth, production or manufacture of the material, including general expenses;
- (B) an amount for profit
- (C) freight, insurance, packing and all other costs incurred in taking the material to the producer’s facility

A good is not considered to be imported directly into the U.S. if, after exportation the article undergoes production, manufacturing or any other operation outside the territory of Morocco or of the U.S. (except for Unloading, reloading or any other process necessary to keep the articles in good condition or to move the good to the territory of Morocco or of the U.S. which are allowed).

In addition, “**Indirect materials**” are disregarded with regards to determining origin of a good. Below is a list of such indirect materials:

- fuel and energy
- tools, dies and molds
- spare parts and materials for maintenance of equipment or buildings

- lubricants, greases, compounding materials and other materials used in the growth, or manufacture of a good or for operating equipment and buildings;
- gloves, glasses, footwear, clothing, safety equipment and supplies;
- equipment, devices and supplies used for testing or inspecting the good; are not considered in determining whether a product qualifies as an originating good.
- catalysts and solvents
- goods that are not incorporated into the good but its use can reasonably be demonstrated to be a part of that growth, production or manufacture.

UNITED STATES – AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

This program provides special duty treatment for goods originating in Australia which are imported to the U.S. The program is referred to as UAFTA and eligible goods are identified with the symbol “AU” in the “special” sub-column of the HTS.

Goods are eligible for treatment as an originating good of a UAFTA country under the following conditions:

- (1) the good is wholly obtained or produced in Australia or the U.S., or both;
- (2) the good was produced entirely in Australia or the U.S., or both, where each of the non-originating materials used in the production of the good changes in tariff classification, the good satisfies any applicable regional value content requirement and the good meets any other requirements specified in GN28
- (3) the good was produced entirely in the territory of Australia or of the United States, or both, exclusively from materials listed in GN28
- (4) the good qualifies as an originating good as per GN28



The term “**goods wholly obtained or produced**” means:

- (1) a mineral good from Australia or the U.S., or both
- (2) a vegetable good harvested in Australia or the U.S., or both;

CUSTOMS REVIEW

- (3) a live animal born and raised in Australia or the U.S., or both;
- (4) a good obtained from hunting, trapping, fishing or aquaculture in Australia the U.S., or both;
- (5) a good (such as marine life) taken from the sea by vessels registered or recorded with Australia or the U.S. and flying the flag of that country;
- (6) a good produced exclusively from products referred to in subdivision (E) of GN28 on board factory ships registered with Australia or the U.S. and flying the flag of that country;
- (7) a good taken by Australia or the U.S., or a person of Australia or the U.S., from the seabed or beneath the seabed outside territorial waters, if Australia or the U.S. has rights to exploit the seabed;
- (8) a good taken from outer space, if such good is obtained by Australia or the U.S., or a person of Australia or the U.S., and is not processed in a country other than Australia or the U.S.
- (9) waste and scrap derived from production in Australia or the U.S. or both or used goods collected in Australia or the U.S., or both, if the goods are fit only for the recovery of raw materials;
- (10) a recovered good from Australia or the U.S. from goods that have passed their life expectancy, or are defective and used in that country in the production of remanufactured goods
- (11) a good produced in Australia or the U.S. or both from above mentioned goods A-J or the derivatives of goods listed in A-J above at any stage of production.

De minimis.

This refers to a good (other than a textile or apparel good) that does not change in tariff classification but is still considered to be an originating good if:

- (1) the value of all nonoriginating parts that are used in production does not exceed 10% of the adjusted value of the good;
- (2) the value of the nonoriginating parts is included in regional value content requirement for the good; and
- (3) the good meets all other applicable requirements of GN28.

Regional value content.

The regional value content for a good shall be calculated by the importer, exporter or producer of the good on the basis of the build-down method or the build-up method.

(A) For the build-down method, the formula $RVC = (AV - VNM) \times 100 / AV$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value; and VNM is the value of non-origin materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced

(B) For the build-up method, the formula $RVC = (VOM \times 100) / AV$, where RVC is the regional value content, expressed as a percentage; AV is the adjusted value; and VOM is the value of origin materials that are acquired or self-produced, and used by the producer in the production of the good.

Record-keeping requirements and verification.

An importer of a good claiming special treatment shall make a written declaration that the good qualifies as originating and may need to submit reasons that the good qualifies as an originating good (including pertinent cost and manufacturing information and all other information requested by customs)

Importers need to main all records from date of importation regarding the origin of the goods such as the purchase, cost, value of and payment for the good, the cost for all materials, including indirect materials, used in the production of the good; and export details of the goods. The records need to be made available upon request by customs and may need to be verified by customs as well.

**DOMINICAN REPUBLIC – CENTRAL AMERICA-
UNITED STATES FREE TRADE AGREEMENT
IMPLEMENTATION ACT**

This program provides special duty treatment for goods that originate in Dominican Republic and Central American which are imported to the U.S. The eligible goods will appear in chapters 1-97 of the HTS and are marked by the symbol “P” or “P+” in the special sub-column of column 1.

- (ii) Wherever a special rate of duty followed by the symbol “P+” in parentheses appears in the tariff schedule, or a provision specifies that such rate of duty or other treatment applies to certain agricultural goods, such duty rate or other treatment applies to goods that otherwise qualify as originating goods under the terms of this note but as to which any operations performed in, or any material obtained from, the United States shall be considered as if the operations were performed in, and the material was obtained from, a country that is not a party to the Agreement; and
- (iii) except as provided in individual notes or tariff provisions, the terms “party to the Agreement” and “parties to the Agreement”

CUSTOMS REVIEW

refer to the following countries: Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua or the United States.

(b) For the purposes of this note, subject to the provisions of subdivisions (c), (d), (m) and (n) thereof, a good imported into the customs territory of the United States is eligible for treatment as an originating good under the terms of this note if—

(i) the good is a good wholly obtained or produced entirely in the territory of one or more of the parties to the Agreement;

(ii) the good was produced entirely in the territory of one or more of the parties to the Agreement, and—

(A) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff

classification specified in subdivision (n) of this note; or

(B) the good otherwise satisfies any applicable regional value content or other requirements specified in subdivision (n) of

this note;

and the good satisfies all other applicable requirements of this note; or

(iii) the good was produced entirely in the territory of one or more of the parties to the Agreement exclusively from originating materials.